

AMENDED IN SENATE JUNE 2, 2003

AMENDED IN SENATE MAY 7, 2003

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 915

Introduced by Senators Perata, Burton, and Torlakson
(Coauthors: Assembly Members Leno, Mullin, and Wiggins)

February 21, 2003

An act to amend Sections 66540.14, 66540.16, 66540.20, 66540.22, 66540.40, and 66540.72 of, to add Section 66540.29 to, and to repeal Section 66540.23 of, the Government Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 915, as amended, Perata. San Francisco Bay Area Water Transit Authority.

Existing law creates the San Francisco Bay Area Water Transit Authority with specified powers and duties relative to the development of a plan for implementation and operation of a water transit system on San Francisco Bay. Existing law provides that the authority may not operate a water transit system until the plan has been statutorily approved by the Legislature. Existing law also provides that the authority shall be funded from appropriations in the annual Budget Act and imposes restrictions on the regional transportation funds that the authority may apply for to fund operation of the water transit system.

This bill would delete the requirement that the authority's plan be statutorily approved prior to commencement of operation of the water transit system. The bill would delete the requirement to fund the authority through the annual Budget Act and would require that the authority be funded from increases in bridge tolls, as proposed by SB

916. The bill would revise other provisions relating to safety of vessel operations and air quality standards of vessels operated by the authority. The bill would make other related changes.

~~Because the bill would impose requirements on the authority, it would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions. The bill would make any duties and responsibilities imposed by the bill contingent upon funding for those purposes being provided from increases in tolls on state-owned toll bridges in the Bay Area pursuant to the expenditure plan in SB 916.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~ no. State-mandated local program: ~~yes~~ no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 66540.14 of the Government Code is
 2 amended to read:
 3 66540.14. There shall be a community advisory committee,
 4 which shall meet on a regular basis, and which shall include one
 5 member representing each local jurisdiction in which a water
 6 transit terminal exists or is proposed, and one member
 7 representing each special district providing public water transit
 8 services. Unless appointed under subparagraph (B) of paragraph
 9 (2) of subdivision (a) of Section 66540.2, one member shall be
 10 appointed by the city council of each city in which a water transit
 11 terminal is located or is proposed to be located, or by the county
 12 board of supervisors if the terminal is located or is proposed to be
 13 located in an unincorporated area, with one member appointed by
 14 the Golden Gate Bridge, Highway and Transportation District.
 15 The community advisory committee shall appoint one of its
 16 members to the board.

SEC. 2. Section 66540.16 of the Government Code is amended to read:

66540.16. (a) There shall be a technical advisory committee, which shall meet on a regular basis, and which shall consist of members representing local, regional, state, and federal agencies, operating ground transportation agencies, and operating water transit services.

(b) Additional members shall include at least one member who represents each of the following interests: fish and wildlife, recreational boating, private environmental protection entities, business, real estate development, architecture, urban planning, private sector vessel operators, and organized labor, as well as the public at large.

SEC. 3. Section 66540.20 of the Government Code is amended to read:

66540.20. (a) The authority shall prepare, adopt, and update as required a San Francisco Bay Area Water Transit Implementation and Operations Plan. The plan shall include all appropriate landside, vessel, and support elements, operational and performance standards, and policies. Plan updates shall be subject to public hearings. Following the authority's submission of a preliminary draft to the Legislature for review on December 12, 2002, the procedure regarding the plan shall continue as follows:

(1) On or after the date of completion of all programmatic environmental impact reports in connection with adoption of the final plan, the authority shall submit the final plan to the Legislature for review.

(2) Thereafter, the authority shall be authorized to operate a comprehensive San Francisco Bay area regional public water transit system consistent with Section 66540.24.

(b) The plan shall investigate and provide for terminal locations throughout the San Francisco Bay area.

(c) The primary focus of the authority and the plan shall be to provide new or expanded water transit services and related ground transportation terminal access services that were not in operation as of June 30, 1999. The authority shall seek to cooperatively involve in the implementation, planning, and operations all existing water transit services and related ground transportation agencies in whose jurisdictions existing or planned water transit

1 terminals are located. The authority shall operate in good faith to
2 avoid negatively impacting water transit services and related
3 ground transportation terminal access services in existence as of
4 June 30, 1999. The authority may not request an allocation of any
5 funds that were available to the Metropolitan Transportation
6 Commission for allocation on June 30, 1999, including the
7 revenues dedicated from state-owned bridges to ferry services as
8 of June 30, 1999, and revenues derived continuously from sources
9 in the amounts and manner as specified in law in effect as of June
10 30, 1999, unless the request is for service transferred to the
11 authority for vessels in operation as of January 1, 2003.

12 (d) The authority may not operate water transit services that are
13 scheduled at the same time, from the same origin, and to the same
14 destination as publicly sponsored services, if those public services
15 were in operation as of June 30, 1999. The authority shall provide
16 ferry services at only those terminals in which docking rights have
17 been obtained with the consent of the owner of those rights.

18 (e) The authority shall negotiate in good faith, as described
19 below, with public sponsors of existing water transit services and
20 related ground transportation terminal access services to provide
21 services in the approved plan that would expand or augment
22 existing services in their service district, as defined by law, or in
23 plans of the Metropolitan Transportation Commission that existed
24 and were in effect as of June 30, 1999. Good faith negotiations
25 shall include all of the following steps:

26 (1) Notification by certified mail from the authority to the
27 public sponsor of existing water transit services or related ground
28 transportation terminal access services, hereafter referred to as the
29 notified agency, setting forth the specific services to be negotiated,
30 including performance standards and conditions and cost
31 reimbursement available according to the plan approved by the
32 Legislature.

33 (2) A period of 30 days from receipt of the notification required
34 under paragraph (1) for the notified agency to declare in writing
35 to the authority by certified mail their intent to negotiate in good
36 faith. If the notified agency does not so declare in writing to the
37 authority within 30 days, the notified agency shall be deemed not
38 interested in negotiating for the service and the authority may
39 announce a competitive bid process or take actions to directly



1 operate the service if the board of directors of the authority makes
2 a public finding that the action is in the public interest.

3 (3) A period of 90 days from declaration of intent to negotiate
4 by the notified agency for the authority and notified agency to
5 negotiate in good faith to reach agreement.

6 (4) The authority and notified agency, by mutual agreement,
7 may extend the period for good faith negotiations.

8 (5) Notwithstanding the procedure described in subdivision
9 (f), if at the end of 90 days or the mutually agreed-upon extension
10 period for negotiations, the authority and the notified agency have
11 not reached agreement for operation of the service, the authority
12 may announce a competitive bid process. The notified agency may
13 participate in that competitive bid process.

14 (f) If at the conclusion of the good faith negotiations process
15 there is a dispute between the authority and the notified agency as
16 to the impact of proposed new services on existing services, the
17 matter shall be submitted to the Metropolitan Transportation
18 Commission for resolution pursuant to Section 66516.5 of the
19 Government Code. The Metropolitan Transportation Commission
20 shall make a determination based on the demand model adopted
21 by the authority as to whether the proposed new service will have
22 a minor or major impact on services existing as of June 30, 1999.
23 A minor impact means an impact that reasonably and potentially
24 diverts less than 15 percent of the passengers using services that
25 were in existence as of June 30, 1999. A major impact means an
26 impact that reasonably and potentially diverts 15 percent or more
27 of the passengers using services that were in existence as of June
28 30, 1999. If the proposed new service will have a major impact, the
29 authority may not operate a water transit service in that location
30 without mutual agreement between the authority and the notified
31 agency. If the proposed new service will have a minor impact, the
32 authority may initiate service according to the procedures
33 contained in subdivision (e).

34 SEC. 4. Section 66540.22 of the Government Code is
35 amended to read:

36 66540.22. The San Francisco Bay Area Water Transit
37 Implementation and Operations Plan and updates to that plan shall
38 include all of the following:

39 (a) A detailed description of the high-speed water transit
40 system, including, but not limited to, all routes to be operated and

1 terminals to be served during the 10-year period following funding
2 of the authority. The description may include phasing of the routes
3 to be served and terminals to be constructed.

4 (b) An adopted demand model based upon ridership surveys
5 conducted throughout the region and an updated demand model
6 developed by the Metropolitan Transportation Commission.

7 (c) A water transit demand analysis, based upon the demand
8 model, of the demand forecast and cost-effectiveness for the water
9 transit system as a whole and for each corridor to be served.

10 (d) Architectural design criteria and standards for terminals
11 and landside facilities to meet the performance objectives and
12 operational criteria. The architectural design criteria and standards
13 for terminals shall be developed with input from the community
14 advisory committee and in consultation with local jurisdictions
15 that are prospective hosts of terminals for the water transit system.

16 (e) An intermodal plan to connect water transit services with
17 other modes of transportation and public transit, including, but not
18 limited to, cooperative arrangements with existing public transit
19 services and new intermodal services. The intermodal plan shall
20 be developed with input from the community advisory committee,
21 the technical advisory committee, and existing ground
22 transportation agencies.

23 (f) A feasibility analysis and proposal for the use of new
24 technologies and alternative fuels in marine engines and ground
25 transportation intermodal services, to the extent feasible, to
26 minimize air emission and water pollution impacts from the
27 system operations. The new technologies and alternative fuels
28 studied in the feasibility analysis and proposal for use in marine
29 engines shall include, but need not be limited to, natural gas, 100
30 percent biodiesel, hybrid solar in combination with electric or
31 wind power, and hybrid solar in combination with both solar and
32 wind power. The analysis shall be conducted in cooperation with
33 the Bay Area Air Quality Management District, the Regional
34 Water Quality Control Board, and the Bay Conservation and
35 Development Commission.

36 (g) A plan for monitoring air emissions and water impacts that
37 is mutually agreed upon by the authority and the entities listed in
38 subdivision (f).

39 (h) Design specifications for vessels, consistent with the
40 architectural design criteria and standards for the terminals and



1 landside facilities and the feasibility analysis to minimize air
2 emission impacts.

3 (i) A plan for acquiring the requisite vessels, including, but not
4 limited to, a proposed request for proposals, that incorporates the
5 design specifications and seeks to support shipbuilding and fleet
6 maintenance within the region to the extent possible.

7 (j) A plan for ensuring safety of vessel operations traveling on
8 the San Francisco Bay. The plan shall be developed in cooperation
9 with the California Maritime Academy and the United States
10 Coast Guard. The authority shall implement the recommendations
11 in its safety plan for enhancement of ferry safety, security, and
12 waterways management. The authority shall update the
13 Metropolitan Transportation Commission's Regional Ferry
14 Contingency Plan and coordinate the response of ferry operators
15 for expanding water transit service in the San Francisco Bay area
16 in the event of a regionwide disaster or disruption of service
17 resulting in damage to area bridges or connecting freeways. The
18 authority shall consult with the Metropolitan Transportation
19 Commission, which is the regional emergency transportation
20 clearinghouse, in performing these functions. The authority shall
21 assist federal, state, and regional agencies in coordinating a
22 response for other emergencies necessitating transportation of
23 passengers by water.

24 (k) A systemwide regional programmatic environmental
25 impact report and study of the plan, consistent with the
26 requirements of the California Environmental Quality Act
27 (Division 13 (commencing with Section 21000) of the Public
28 Resources Code), and consistent with the substantive
29 requirements of the National Environmental Policy Act of 1969
30 (42 U.S.C. Sec. 4321 et seq.). The report shall include an
31 independent evaluation conducted by the Bay Area Air Quality
32 Management District to assess the air quality impacts of the
33 complete water transit system, as set forth in the San Francisco Bay
34 Area Water Transit Implementation and Operations Plan, in
35 comparison to transporting the same number of people over the
36 same distance by motor vehicles and other modes of
37 transportation. The air emissions standard for new vessels
38 mandated in the authority's plan shall exceed the federal
39 Environmental Protection Agency's air quality standards for Tier

1 II 2007 marine engines by at least 85 percent as recommended in
2 the authority's programmatic environmental review impact report.

3 (l) An overall funding and financing plan based upon the
4 detailed description of the water transit system and demand
5 analysis, including, but not limited to, acquisition and construction
6 phasing.

7 (m) A projection of capital and cash-flow requirements,
8 including, but not limited to, costs for vessels and associated
9 maintenance facilities, terminals and associated land use costs, and
10 costs for feeder vehicles and associated maintenance facilities.

11 (n) A projection of operating costs and revenues, including, but
12 not limited to, projected patronage, fare structure, and fare
13 revenues for water transit and feeder services.

14 (o) A proposal for ongoing operating financial support.

15 (p) An analysis of the cost-effectiveness of the water transit
16 system in comparison to other options for mobility and disaster
17 relief and recovery. The analysis shall be prepared in cooperation
18 with the Metropolitan Transportation Commission.

19 SEC. 5. Section 66540.23 of the Government Code is
20 repealed.

21 SEC. 6. Section 66540.29 is added to the Government Code,
22 to read:

23 66540.29. The authority shall dedicate at least one new vessel,
24 subject to engine manufacturers' warranties, to employ biodiesel
25 fuel (B20) to assess the practical application of using renewable
26 fuels. If further funding becomes available for this application
27 from regional, state, or federal funding sources, the authority shall
28 consider increasing use of biodiesel fuel to demonstrate reduction
29 in greenhouse gas emissions. The air emission standards set by the
30 authority in subdivision (k) of Section 66540.22 shall apply to the
31 use of biodiesel fuel.

32 SEC. 7. Section 66540.40 of the Government Code is
33 amended to read:

34 66540.40. The authority may acquire, own, lease, construct,
35 and operate water transit vessels and equipment, including, but not
36 limited to, real and personal property, and equipment, and any
37 facilities of the authority, except those facilities providing access
38 to units of the national park system.

39 SEC. 8. Section 66540.72 of the Government Code is
40 amended to read:



66540.72. The authority shall be funded from funds derived from proposed increases in tolls on state-owned toll bridges in the bay area pursuant to the expenditure plan approved by the Legislature in Senate Bill No. 916. The authority shall not be an eligible claimant for local transportation funds or state transportation assistance funds pursuant to the Transportation Development Act (Chapter 4 (commencing with Section 99200) of Part 11 of Division 10 of the Public Utilities Code).

SEC. 9. This act is intended to serve as the approval by the Legislature of the San Francisco Bay Area Water Transit Implementation and Operations Plan as required by Section 66540.20 of the Government Code, as that section existed prior to the enactment of this act.

~~SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.~~

SEC. 10. Any duties and responsibilities imposed by this act shall be contingent upon funding for those purposes being derived from increases in tolls on state-owned toll bridges in the Bay Area pursuant to the expenditure plan in Senate Bill 916.